

Rules of Department of Insurance

Division 200—Financial Examination

Chapter 7—Security Deposits

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**Title 20—DEPARTMENT OF
INSURANCE****Division 200—Financial Examination
Chapter 7—Security Deposits****20 CSR 200-7.100 Corporate Bonds and
Notes as Admissible Deposits**
(Rescinded May 6, 1993)**20 CSR 200-7.200 Deposit of Securities
Under a Book-Entry System**

PURPOSE: This rule provides the procedures to verify insurance company-owned securities being held by a clearing corporation or a federal reserve bank in book-entry form and for withdrawal procedures where these securities are on deposit with the Department of Insurance pursuant to section 400.8-108.3, RSMo.

(1) Securities Not Placed on Deposit.

(A) A custodial agreement between the depository (commercial bank or clearing corporation) and the insurance company must be in effect.

1. This custodial agreement must contain provisions which require the depository to provide verification that securities actually are on deposit.

2. The division may require verification from the custodian at any time it deems that verification is appropriate. Examples of appropriate verification documents are attached as Exhibits A—C.

(B) A copy of the custodial agreement must be furnished to the insurance department for its records on request.

(2) Securities Placed on Deposit.

(A) An insurance company which deposits securities in the form of book-entry receipts in order to meet its deposit requirements shall deposit the securities or the certificates representing the securities in a depository (commercial bank or clearing corporation) designated by the director of the Department of Insurance for safekeeping.

(B) The designated depository shall hold the securities or the certificates representing the securities separate and apart from the general assets of the depository and shall provide to the insurance company and the director verification of securities or certificates representing the securities from time-to-time as requested by the insurance company or the director.

(C) The depository shall receive and collect all income from the deposited property and shall deposit the income to the credit of the insurance company's account.

(D) All or any part of the securities or certificates representing the securities on deposit with the depository may be withdrawn only on prior written request for withdrawal signed in the name of the insurance company and the depository and by the director or his/her designee.

(E) The treasurer of the company or other officer authorized to act on his/her behalf from time-to-time shall certify to the depository the names and signatures of officers of the insurance company qualified to execute written withdrawal requests.

(F) The depository shall enter into custodial agreements with all insurance companies depositing securities in the form of book-entry receipts under this rule.

(G) The depository shall enter into a master agreement with the department setting out the terms and conditions under which the depository will act as custodian of amounts deposited pursuant to this rule.

(H) In order to comply with the provisions of this rule, insurance companies which have securities deposited in the form of book-entry receipts shall transfer these securities to the depository designated by the director within ninety (90) days of the date of the designation.

*AUTHORITY: sections 374.045 and 400.8-108.3, RSMo Supp. 1998 and 375.460, RSMo 1994. * This rule was previously filed as 4 CSR 190-II.150. Original rule filed Jan. 15, 1980, effective Aug. 1, 1980. Amended: Filed Jan. 3, 1990, effective May 1, 1990. Amended: Filed April 23, 1999, effective Nov. 30, 1999.*

**Original authority: 374.045, RSMo 1967, amended 1993, 1995; 375.460, RSMo 1939; and 400.8-108.3, RSMo 1992, amended 1997.*

EXHIBIT A**Custodian Affidavit**

(For use where ownership is evidenced by book entry at Federal Reserve Bank of _____.)

STATE OF _____)
)
 COUNTY OF _____) SS.:

_____, being duly sworn deposes and says that s/he _____ is _____ of the _____, a banking corporation organized under and pursuant to the _____ laws of the _____ with its principal place of business at _____ (hereinafter called the "bank"); _____

That his/her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ with a place of business at _____ (hereinafter called _____ the "insurance company") pursuant to an agreement between the bank and the insurance company (NOTE: Insert Department of Insurance as party if securities are to be placed on deposit);

That it has caused certain of such securities to be credited to its book-entry account with the Federal Reserve Bank of _____ under the Federal Reserve book-entry procedure; and that the schedule attached hereto is a true and complete statement of the securities of the insurance company of which the bank was custodian as of the close of business on _____ which were in a "General" book-entry account maintained in the name of the bank on the books and records of the Federal Reserve Bank of _____ at such date;

That the bank has the same responsibility for the safe-keeping of such securities whether in the possession of the bank or in said "General" book-entry account as that responsibility is specifically set forth in the agreement between the bank as custodian and the insurance company; and

That, to the best of his/her knowledge and belief, unless otherwise shown on the schedule, said securities were the property of said insurance company and were free of all liens, claims or encumbrances whatsoever.

 (Signature of Affiant)

Subscribed and sworn to before me this _____ day of _____, _____

 (Notary Public)

(SEAL)

My Commission Expires: _____

EXHIBIT B**Custodian Affidavit**

(For use in instances where a custodian bank maintains securities on deposit with a Clearing Corporation.)

STATE OF _____)
)
 COUNTY OF _____) ss.:

_____, being duly sworn deposed and says that s/he _____ is
 _____ of the _____, a banking corporation organized under and pursuant to the
 laws of the _____ with its principal place of business at _____
 (hereinafter called the "bank");

That his/her duties involve supervision of activities of the bank as custodian and records relating thereto;

That the bank is custodian for certain securities of _____ with a place of business at _____
 (hereinafter called) _____ the "insurance company" pursuant to an agreement between the bank
 and the insurance company (NOTE: Insert Department of Insurance as party if securities are to be placed on
 deposit);

That the bank is custodian for certain of such securities to be deposited with a Clearing corporation; and the
 schedule attached hereto is a true and complete statement of the securities of the insurance company of which the
 bank was custodian as of the close of business on _____, and which were so deposited with a Clearing
 Corporation at such date;

That the bank as custodian has the same responsibility for the safe-keeping of such securities whether in the
 possession of the bank or deposited with a Clearing Corporation as that responsibility is specifically set forth in the
 agreement between the bank as custodian and the insurance company; and

That, to the best of his/her knowledge and belief, unless otherwise shown on the schedule, said securities were the
 property of said insurance company and were free of all liens, claims or encumbrances whatsoever.

 (Signature of Affiant)

Subscribed and sworn to before me this _____ day of _____,

 (Notary Public)

(SEAL)

My Commission Expires: _____

EXHIBIT C**Custodian Affidavit**

(For use in instances where securities are deposited directly with a Clearing Corporation.)

STATE OF)
)
COUNTY OF) ss.:

_____, being duly sworn deposes and says that s/he is
_____ of a Clearing Corporation; _____

That his/her duties involve supervision of activities of a Clearing Corporation as custodian and records relating thereto; _____

That a Clearing Corporation is custodian for certain securities of _____, having a place of business at _____ (hereinafter called "insurance company") pursuant to an agreement between a Clearing Corporation and the insurance company (NOTE: Insert Department of Insurance as party if securities are to be placed on deposit);

That the schedule attached hereto is a true and complete statement of securities which were in the custody of a Clearing Corporation for the account of the insurance company as of the close of business on _____;

That a Clearing Corporation as custodian has the responsibility for the safekeeping of such securities (whether in the possession of a Clearing Corporation, deposited with the Federal Reserve Bank of _____ or deposited with another person acting as custodian for a Clearing corporation) as that responsibility is specifically set forth in the agreement between a Clearing Corporation as custodian and the insurance company.

That, to the best of his/her knowledge and belief, unless otherwise shown on the schedule, said securities were the property of said insurance company and were free of all liens, claims or encumbrances whatsoever.

(Signature of Affiant)

Subscribed and sworn to before me this _____ day of _____.

(Notary Public)

(SEAL)

My Commission Expires: _____

20 CSR 200-7.300 Mortgage Loans as Admissible Deposits

PURPOSE: This rule effectuates or aids in the interpretation of section 376.170, RSMo.

(1) Definitions.

(A) The word current as used is defined to mean as of the approximate date of loan.

(B) Mortgage loans as used in this rule include promissory notes secured by deeds of trust or other lien instruments on real estate.

(2) All mortgage loans must be properly recorded.

(3) No second mortgage loan is acceptable for depository purposes.

(4) Mortgage Loans as Admissible Assets Placed on Deposit With the Department of Insurance. The following documents shall be maintained for each mortgage loan by all insurance companies holding mortgage loans as admissible assets and placing the mortgage loans on deposit with the Department of Insurance:

(A) A completed proposal for deposit of mortgages and deeds of trust;

(B) A current title policy or acceptable attorney's legal opinion;

(C) A current appraisal of mortgaged property made under the standards required by 20 CSR 200-13.100;

(D) A certification by the county collector or an affidavit by an officer of the insurance company that no property taxes are in arrears or a certification on the title policy or legal opinion that current taxes have been paid;

(E) A photograph of the subject property if improved;

(F) If subject property is improved, a fire insurance policy or a photocopy of the declaration's page of the policy or an affidavit by an officer of the insurance company that fire coverage has been obtained or a photocopy of an insurance certificate by a loan correspondent;

(G) An affidavit by an officer of the insurance company that the amount of investment (mortgage) does not exceed one percent (1%) of its admitted assets or ten percent (10%) of its capital and surplus, whichever is greater as shown on its last annual statement preceding the date of acquisition as filed with the Department of Insurance;

(H) Any other document that the insurance company is directed to maintain by the director of the Department of Insurance; and

(I) A copy of written appraisal made under the standards of 20 CSR 200-13.100.

(5) Each of the documents required to be maintained for mortgage loans under the provisions of section (4) of this rule shall be maintained in accordance with the provisions of 20 CSR 200-4.010.

AUTHORITY: sections 374.045, 376.170 and 376.300, RSMo 1986 and 379.080, RSMo Supp. 1989. This rule was previously filed as 4 CSR 190-II.040(1)–(4) and (6). Original rule filed Aug. 5, 1974, effective Aug. 15, 1974. Amended: Filed Jan. 25, 1991, effective July 8, 1991. Amended: Filed Aug. 4, 1992, effective April 8, 1993.*

**Original authority: 374.045, RSMo 1967; 376.170, RSMo 1939; 376.300, RSMo 1939, amended 1943, 1945, 1949, 1953, 1961, 1963, 1973, 1979, 1982, 1985; and 379.080, RSMo 1939, amended 1943, 1947, 1963, 1977, 1981, 1982, 1985, 1987, 1989.*